

1978

## c 69 The Children's Institutions Act, 1978

Ontario

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## CHAPTER 69

**An Act to revise  
The Children's Institutions Act**

*Assented to November 30th, 1978*

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. In this Act,**

Interpre-  
tation

- (a) "approved children's institution" means a children's institution approved under section 3;
- (b) "approved corporation" means a corporation approved under section 2;
- (c) "child" means a person under eighteen years of age;
- (d) "children's institution" means all or any part of a building or buildings maintained and operated by an approved corporation for children and other persons requiring sheltered, specialized or group care but does not include,
  - (i) a charitable institution under *The Charitable Institutions Act*, R.S.O. 1970, c. 62
  - (ii) a place of safety or a receiving home within the meaning of Part II of *The Child Welfare Act, 1978*, 1978, c. 85
  - (iii) a day nursery established and operated under *The Day Nurseries Act, 1978*, 1978, c. 72
  - (iv) a children's mental health centre under *The Children's Mental Health Services Act, 1978*, 1978, c. 67
  - (v) a home for retarded persons under *The Homes for Retarded Persons Act*, R.S.O. 1970, c. 204

R.S.O. 1970,  
c. 270

(vi) an institution under *The Mental Hospitals Act*,

R.S.O. 1970,  
c. 361

(vii) a private hospital under *The Private Hospitals Act*,

R.S.O. 1970,  
c. 363

(viii) a sanitarium under *The Private Sanitaria Act*,

R.S.O. 1970,  
c. 378

(ix) a hospital under *The Public Hospitals Act*,

R.S.O. 1970,  
c. 422

(x) a sanatorium under *The Sanatoria for Consumptives Act*;

(e) "Minister" means the Minister of Community and Social Services;

(f) "regulations" means the regulations made under this Act. R.S.O. 1970, c. 66, s. 1; 1971, c. 98, s. 4, Sched., par. 7; 1972, c. 1, s. 19 (3); 1972, c. 58, s. 1, *amended*.

Approval of  
corporations  
R.S.O. 1970,  
c. 89

2.—(1) Where the Minister is satisfied that any corporation without share capital having objects of a charitable nature to which Part III of *The Corporations Act* applies or that is incorporated under a general or special Act of the Parliament of Canada is, with financial assistance under this Act and the regulations, financially capable of establishing, maintaining and operating a children's institution and that its affairs are carried on under competent management in good faith for charitable purposes, he may approve such corporation for the purposes of this Act and the regulations. 1971, c. 50, s. 19 (1), *amended*.

Funding of  
corporations

(2) Where the Minister intends to approve a corporation under subsection 1, the Minister may enter into an agreement with the corporation for the establishment of a children's institution upon such terms and conditions as may be agreed and may direct payment of expenditures as are necessary for the purpose. *New*.

Approval of  
children's  
institutions

3.—(1) Where the Minister is satisfied that all or any part of a building or buildings is suitable for providing accommodation as a children's institution in accordance with this Act and the regulations and that there is a need for a children's institution in the area served or to be served by the institution, the Minister may approve all or any part of the building or buildings, as the case may be, as a children's institution and assistance may be given under this Act and the regulations for the maintenance and operation of the children's institution.

(2) An approval given under subsection 1 or under section 2 may take effect on any date fixed by the Minister that is prior to the date on which the approval is given, but in no case shall the date upon which the approval under subsection 1 takes effect precede the date on which the approval given under section 2 to the corporation maintaining and operating the children's institution takes effect. 1971, c. 50, s. 19 (2), *amended*.

4. The by-laws of every approved corporation shall contain such provisions as the regulations prescribe and a certified copy of the by-laws and any amendment thereto shall be filed with the Minister forthwith after they are made. R.S.O. 1970, c. 66, s. 4, *amended*.

5.—(1) Where the Minister has approved the erection of a new building, an addition to an existing building, the purchase or other acquisition of an existing building, the structural alteration or the renovation or the furnishing and equipping of a building by an approved corporation for use in whole or in part as a children's institution, the Minister may direct payment to the approved corporation out of moneys appropriated therefor by the Legislature of an amount determined in accordance with the regulations, towards the cost of the new building, addition, acquisition, structural alteration, renovation or furnishing and equipping, as the case may be, that is applicable to the children's institution.

(2) An amount payable to an approved corporation under this section shall be paid at the time or times and in the manner as is prescribed by the regulations. 1972, c. 58, s. 2, *part, amended*.

6. There shall be paid to every approved corporation, an amount determined in accordance with the regulations towards the cost incurred for services provided by the corporation for children and other persons or classes of persons prescribed by the regulations. 1972, c. 58, s. 3, *amended*.

7.—(1) The Minister may designate in writing any person to be a program adviser with such powers and duties for the purposes of this Act and the regulations and subject to such limitations, restrictions, conditions and requirements as the Minister may set out in the designation.

(2) The remuneration and expenses of any person appointed under subsection 1 who is not in the employ of the public service of Ontario shall be fixed by the Minister and shall



be paid out of the moneys appropriated therefor by the Legislature.

Powers of  
program  
advisers

(3) A program adviser may, at all reasonable times and upon producing proper identification, enter any children's institution and inspect the facilities, the services provided and the books of account and other records therein.

Access for  
inspections

(4) Every person when requested so to do by a program adviser shall permit the entry and inspection by the program adviser of the premises referred to in subsection 3 and shall produce and permit inspection of the books of account and other records therein and supply extracts therefrom.

Obstruct-  
ing  
inspection

(5) No person shall hinder or obstruct a program adviser in the performance of the program adviser's duties or refuse to permit the program adviser to carry out such duties or refuse to furnish the program adviser with information or furnish the program adviser with false information. R.S.O. 1970, c. 66, s. 8, *amended*.

Suspension  
and  
revocation  
of  
approvals

8.—(1) Subject to this section, any approval given under section 2 or 3 may be suspended or revoked by the Minister where,

- (a) any director, officer or employee of the approved corporation has contravened or knowingly permitted any person under the control and direction of the director, officer or employee, as the case may be, to contravene any provision of this Act or the regulations; or
- (b) the approval would be refused if application were being made for it in the first instance.

Notice of  
proposal  
to suspend  
or revoke

(2) Subject to subsection 10, where the Minister proposes to suspend or revoke an approval given under section 2 or 3, the Minister shall, except where the approval is suspended or revoked with the consent of the approved corporation, serve notice of the Minister's proposal to suspend or revoke the approval, together with written reasons therefor, on the approved corporation.

Notice  
requiring  
hearing

(3) A notice under subsection 2 shall inform the approved corporation that it is entitled to a hearing under this section if the corporation mails or delivers, within fifteen days after the notice under subsection 2 is served on it, notice in writing, to the Minister requiring a hearing and the corporation may so require a hearing.

(4) Where the approved corporation does not require a hearing under this section in accordance with subsection 5, the Minister may carry out the proposal stated in the Minister's notice under subsection 2 without a hearing. Powers of Minister where no hearing

(5) Where the approved corporation requires a hearing under subsection 3, the Minister shall cause a hearing to be held to determine whether the approval should be suspended or revoked. Hearing

(6) Where the Minister causes a hearing to be held, the hearing shall be held by a person or persons appointed by the Minister other than a person or persons in the employment of the Ministry. Idem

(7) Sections 4 to 16 and 21 to 24 of *The Statutory Powers Procedure Act, 1971* apply with respect to a hearing under this section. Application of 1971, c. 47

(8) The person or persons holding a hearing under this section shall, at the conclusion of the hearing, make a report to the Minister setting out, Report to Minister

(a) the findings of fact and any information or knowledge used by the person or persons in making any recommendations, any conclusions of law arrived at relevant to the recommendations; and

(b) the recommendations of the person or persons as to the suspension or revocation of the approval,

and shall send a copy of the report to the persons affected by the report.

(9) After considering a report made under this section, the Minister may suspend or revoke the approval to which the report relates and shall give notice of the Minister's decision to the persons affected, specifying the reasons therefor. Decision of Minister

(10) Notwithstanding anything in this section, the Minister, by notice to the persons affected and without a hearing, may provisionally suspend an approval given under this Act where the continuation of operations in accordance with the approval is, in the Minister's opinion, an immediate threat to the public interest and the Minister so states in such notice giving reasons therefor, and thereafter the Minister shall cause a hearing to be held and the provisions of subsections 2 to 9 apply. 1971, c. 50, s. 19 (3); 1972, c. 1, s. 19 (3), *amended*. Provisional suspension of approval

Determina-  
tion of  
need

9. In determining need for the purposes of sections 3 and 8, the Minister shall take into account in addition to all other relevant considerations,

- (a) the services for children provided in approved children's institutions that exist;
- (b) the services for children that are available other than in approved children's institutions;
- (c) the number of children requiring the services of children's institutions;
- (d) the predictable continuing demand for children's institutions,

in the area, or in the area and any other area served or to be served by the children's institution,

- (e) the relative priority of the program of the children's institution in relation to all other programs for children funded by the Ministry;
- (f) the funds available to provide continuing services for children in approved children's institutions; and
- (g) the place or places of residence of the children served or to be served by the children's institutions. *New.*

Regulations

10. The Lieutenant Governor in Council may make regulations, governing the management, operation and use of approved children's institutions or any class thereof and without limiting the generality of the foregoing may make regulations,

- (a) exempting designated approved corporations or approved children's institutions or any class thereof from specified provisions of this Act or the regulations for such period or periods of time as the regulations prescribe;
- (b) establishing an advisory board consisting of not more than three persons and prescribing its duties;
- (c) governing the accommodation, facilities, equipment and services to be provided in approved children's institutions;



- (d) governing the establishment, management, operation, location and construction of approved children's institutions or any class thereof and their alteration and renovation;
- (e) governing the admission of persons to and their discharge from approved children's institutions, prescribing the conditions of eligibility and procedures for such admission and discharge;
- (f) prescribing the qualifications of persons employed in approved children's institutions or any class thereof and prescribing the powers and duties of such persons;
- (g) requiring and prescribing medical and other related or ancillary services for the care and treatment of children and other persons in approved children's institutions or in any class thereof;
- (h) governing applications by approved corporations for payments under this Act and prescribing the method, time, manner and the terms and conditions for the payment thereof and providing for the suspension and withholding of payments and for the making of deductions from payments;
- (i) defining criteria that shall be used by the Minister in determining need under subsection 1 of section 3;
- (j) prescribing classes of persons other than children for whom payment shall be made under section 6;
- (k) prescribing the manner of computing the costs for the purposes of sections 5 and 6 and prescribing classes of payment for the purposes of those sections and determining the amount of any such payment;
- (l) requiring approved corporations and approved children's institutions to provide such information as is prescribed and prescribing the persons to whom such information is to be given;
- (m) prescribing the accounts and records to be kept by approved corporations and approved children's institutions, the claims, returns and reports to be made and budgets to be submitted to the Minister by approved corporations and the method, time and manner in which such claims, returns and reports shall be made;



- (n) providing for the recovery by an approved corporation or Ontario from the person or persons in whose charge a child is or from the estate of such person or persons of any amount paid by the corporation or by Ontario to the corporation for the cost of the care and maintenance of the child in an approved children's institution and prescribing the circumstances and the manner in which any such recovery may be made;
- (o) prescribing additional powers and duties of program advisers;
- (p) prescribing forms and providing for their use;
- (q) establishing procedures by which a determination may be made by a person or persons of services that shall be provided in exceptional cases by an approved children's institution or any class thereof and prescribing the person or persons who shall make such determination and what constitutes exceptional cases;
- (r) providing for the recovery of payments made to approved corporations under this Act and the regulations. R.S.O. 1970, c. 66, s. 10; 1971, c. 50, s. 19 (4); 1972, c. 58, s. 4, *amended*.

## Service

**11.**—(1) Unless otherwise provided for in this Act or the regulations, any notice required to be given, delivered, filed or served under this Act or the regulations is sufficiently given, delivered, filed or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at the person's last known address.

## Idem

(2) Where service is made by mail, the service shall be deemed to be made on the tenth day after the day of mailing unless the person on whom service is being made establishes that the person did not receive it or did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control, receive the notice or order until a later date. *New.*

## Offences

**12.** Every person who,

- (a) knowingly furnishes false information in any application under this Act or in any statement, report or return required to be furnished under this Act or the regulations;

(b) contravenes any provision of section 7,

and every director, officer or employee of a corporation who knowingly concurs in such furnishing of false information, or contravention by the corporation, is guilty of an offence and on summary conviction by the court is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than two years, or to both.

**13.** The following are repealed:

Repeals

1. *The Children's Institutions Act*, being chapter 66 of the Revised Statutes of Ontario, 1970.
2. *The Children's Institutions Amendment Act, 1972*, being chapter 58.
3. Section 19 of *The Civil Rights Statute Law Amendment Act, 1971*, being chapter 50.
4. Paragraph 7 of the Schedule to *The Age of Majority and Accountability Act, 1971*, being chapter 98.

**14.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-  
ment

**15.** The short title of this Act is *The Children's Institutions Act, 1978*. Short title

